

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF TENNESSEE
KNOXVILLE DIVISION**

IN RE:

CASE NO.: 3:15-bk-33764-SHB

RANDY HAROLD BAKER

CHAPTER 13

Debtor.

HON. SUZANNE H. BAUKNIGHT

MOTION FOR RELIEF FROM AUTOMATIC STAY
FILED BY REVERSE MORTGAGE SOLUTIONS, INC.

Secured Creditor, REVERSE MORTGAGE SOLUTIONS, INC., by and through the undersigned counsel, hereby moves this Court, pursuant to 11 U.S.C. § 362(d), for a modification of the automatic stay provisions for cause, and, in support thereof, states the following:

1. Debtor, Randy Harold Baker, filed a voluntary petition pursuant to Chapter 13 of the United States Bankruptcy Code on December 28, 2015.
2. Jurisdiction of this cause is granted to the Bankruptcy Court pursuant to 28 U.S.C. § 1334, 11 U.S.C. § 362(d), Fed. R. Bankr. P. 4001(a), and all other applicable rules and statutes affecting the jurisdiction of the Bankruptcy Courts generally.
3. On July 18, 2013, Charles N. Baker, by Virginia Baker, Attorney in Fact and Virginia Baker, executed and delivered a Promissory Note (“Note”) and Deed of Trust (“Mortgage”) securing payment of the Note in the maximum principal amount of \$192,000.00 to Reverse Mortgage Solutions, Inc. dba Security 1 Lending. The Mortgage was recorded on August 8, 2012 in Book 1388 at Page 444-458 in the Public Records of Claiborne County, Tennessee. The loan was transferred to Secured Creditor. True and

accurate copies of documents establishing a perfected security interest and ability to enforce the terms of the Note are attached hereto as Composite Exhibit "A." The documents include copies of the Note with any required indorsements, Recorded Mortgage, Assignment(s) of Mortgage, and any other applicable documentation supporting the right to seek a lift of the automatic stay and foreclose, if necessary.

4. The Mortgage provides Secured Creditor a lien on the real property located in Claiborne County, Tennessee, and legally described as follows:

THE LAND DESCRIBED HEREIN IS SITUATED IN THE STATE OF TENNESSEE, COUNTY OF CLAIBORNE, AND IS DESCRIBED AS FOLLOWS:

SITUATED IN DISTRICT NO. FIVE (5) OF CLAIBORNE COUNTY, TENNESSEE, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT AN IRON PIN SET ON THE EAST SIDE OF POPLAR GROVE ROAD AT A NEW ESTABLISHED CORNER OF THE PROPERTY HEREIN DESCRIBED AND THE PROPERTY CONVEYED TO RANDY H. BAKER AND WIFE, DENISE DASEY BAKER, BY DEED, DATED JUNE 13, 2013; THENCE WITH THE EAST SIDE OF POPLAR GROVE ROAD THE FOLLOWING THREE CALLS AND DISTANCES: N. 12° 37' 03" W. 69.83 FEET; N. 13° 50' 18" W. 43.25 FEET; N. 35° 05' 49" W. 23.99 FEET TO AN IRON PIN SET ON THE SOUTH SIDE OF BREVEN AVENUE AND THE DANIEL & CINDY JONES PROPERTY (D.B.-236, PAGE 325); THENCE LEAVING POPLAR GROVE ROAD AND WITH THE DANIEL & CINDY JONES PROPERTY THE FOLLOWING CALLS AND DISTANCES: N. 75° 05' 47" E. 34.25 FEET; THENCE N. 68° 38' 48" E. 55.84 FEET; THENCE N. 69° 11' 31" E. 64.12 FEET; THENCE N. 81° 03' 22" E. 39.59 FEET TO A POINT IN HOLLOW KNOWN AS DEAD HORSE HOLLOW; THENCE N. 75° 27' 36" E. 106.82 FEET PASSING A SPRING BOX LOCATED ON THE PROPERTY HEREIN DESCRIBED AND WITH THE CENTERLINE OF EXISTING CREEK; THENCE N. 68° 30' 24" E. 48.22 FEET; THENCE N. 80° 23' 01" E. 57.94 FEET; THENCE N. 70° 06' 51" E. 92.09 FEET; THENCE N. 16° 59' 12" W. 25.07 FEET PASSING A SPRING LOCATED ON THE PROPERTY HEREIN DESCRIBED; THENCE N. 22° 17' 38" E. 14.22 FEET; THENCE N. 05° 32' 06" E. 65.22 FEET WITH AN EXISTING FENCE LINE TO A 36" BEECH & FENCE CORNER; THENCE CONTINUING WITH THE EXISTING FENCE LINE: N. 71° 32' 22" E. 116.29 FEET; THENCE N. 52° 58'

10" E. 35.62 FEET; THENCE N. 44° 27' 54" E. 33.13 FEET; THENCE N. 02° 52' 27" E. 23.13 FEET; THENCE N. 13° 19' 06" E. 25.69 FEET; THENCE N. 16° 29' 10" E. 33.94 FEET; THENCE N. 63° 16' 40" E. 123.54 FEET; THENCE N. 46° 58' 31" E. 53.44 FEET; THENCE N. 48° 30' 23" E. 117.18 FEET TO A FENCE CORNER POST, CORNER WITH JERRY WAYNE CARMACK (D.B. 1373, PAGE 382); THENCE WITH THE PROPERTY OF MITCHELL COSBY (D.B. 1155, PAGE 832 & D.B. 229, PAGE 66) AND AN EXISTING FENCE LINE THE FOLLOWING CALLS AND DISTANCES: S. 24° 50' 12" E. 23.55 FEET; S. 28° 21' 53" E. 33.81 FEET; S. 17° 10' 20" E. 135.70 FEET; S. 28° 37' 18" E. 74.39 FEET; S. 23° 3' 38" E. 50.53 FEET; S. 21° 03' 30" E. 184.83 FEET; S. 18° 45' 44" E. 56.02 FEET TO A FENCE CORNER; S. 01° 48' 26" W. 40.63 FEET; S. 66° 15' 57" W. 28.44 FEET; S. 73° 32' 07" W. 206.21 FEET; S. 86° 08' 36" W. 39.88 FEET; S. 77° 35' 05" W. 76.92 FEET; S. 69° 28' 25" W. 36.34 FEET; S. 68° 32' 26" W. 166.81 FEET; S. 76° 28' 30" W. 75.39 FEET; S. 66° 15' 12" W. 64.66 FEET TO AN IRON PIN SET; THENCE WITH A NEW DIVISIONAL LINE OF THE RANDY H. BAKER PROPERTY THE FOLLOWING TWO CALLS AND DISTANCE: N. 22° 13' 45" W. 210.38 FEET; S. 66° 51' 14" W. 350.00 FEET TO THE POINT OF BEGINNING, CONTAINING 8.002 ACRES, ACCORDING TO SURVEY BY PARSON ENGINEERING & ASSOCIATES, WILLIAM H. PARSON, SURVEYOR, TN NO. 1172, AND DATED 6/5/2013.

BEING THE SAME PROPERTY AS CONVEYED TO HAZEL B. BAKER COSBY, JOHNNY D. BAKER AND RANDY M. BAKER, AS TENANTS IN COMMON, AS TO THE REMAINDER FROM CHARLES N. BAKER AND HIS WIFE VIRGINIA BAKER, AS TO A LIFE ESTATE BY DEED DATED OCTOBER 10, 1990, RECORDED OCTOBER 12, 1990, IN BOOK 201, PAGE 609.

JOHNNY BAKER DIED INTESTATE ON JUNE 22, 1991, IN TOLEDO, OHIO, LEAVING HIS WIFE RHONDA BAKER, AND HIS TWO DAUGHTERS, TRACI BAKER AND JODIE BAKER, AS HIS SOLE HEIRS.

WHEREAS RHONDA GAIL BAKER, TRACI BAKER, JODIE BAKER, HEIRS OF JOHNNY D. BAKER AND HAZEL BAKER COSBY DEED TO RANDY H. BAKER BY WARRANTY DEED DATED APRIL 16, 1996, RECORDED JUNE 4, 1996 IN WARRANTY DEED BOOK 235, PAGE 129, REGISTER'S OFFICE OF CLAIBORNE COUNTY, TENNESSEE.

This property is located at the street address of: 353 Poplar Grove Road, Harrogate, Tennessee 37752.

5. Based upon the Debtor's Confirmed Chapter 13 Plan (Docket No. 2), the property treated outside the plan and Secured Creditor will receive payments directly. This is a Reverse Mortgage. There are no regular monthly payments under the loan. The Debtor is responsible for maintaining taxes and insurance on the property throughout the term of the loan.
6. The terms of the aforementioned Note and Mortgage have been in default, and remain in post petition default since November 10, 2016. The terms and conditions of the Note and Reverse Mortgage are in default due to failure to perform an obligation under the Reverse Mortgage by failing to maintain insurance in the amount of \$824.00 as of the date of this motion.
7. As of June 19, 2017, Secured Creditor is due the total loan balance of \$110,840.23.
8. According to Debtor's Schedules, the value of the property is \$54,800.00. See Exhibit "B" which is attached hereto and permissible as a property valuation under Fed. R. Evid. 803(8). There is no equity in the property.
9. Secured Creditor's security interest in the subject property is being significantly jeopardized by Debtor's failure to comply with the terms of the subject loan documents while Secured Creditor is prohibited from pursuing lawful remedies to protect such interest. Secured Creditor has no protection against the erosion of its collateral position and no other form of adequate protection is provided.
10. If Secured Creditor is not permitted to enforce its security interest in the collateral or be provided with adequate protection, it will suffer irreparable injury, loss, and damage.
11. Secured Creditor respectfully requests the Court grant it relief from the Automatic Stay in this cause pursuant to §362(d)(1) of the Bankruptcy Code, for cause, namely the failure to

maintain taxes and insurance on the subject property pursuant to the terms of the loan.

12. Once the stay is terminated, the Debtor will have minimal motivation to insure, preserve, or protect the collateral; therefore, Secured Creditor requests that the Court waive the 14-day stay period imposed by Fed.R.Bankr.P. 4001(a)(3).
13. Secured Creditor has incurred court costs and attorney's fees in this proceeding and will incur additional fees, costs and expenses in foreclosing the Mortgage and in preserving and protecting the property, all of which additional sums are secured by the lien of the Mortgage. Secured Creditor seeks an award of its reasonable attorneys' fees and costs, or alternatively, leave to seek recovery of its reasonable attorneys' fees and costs in any pending or subsequent foreclosure proceeding.
14. A proposed order accompanies this motion and is attached hereto.

WHEREFORE, Secured Creditor, prays this Honorable Court enter an order modifying the automatic stay under 11 U.S.C. § 362(d) to permit Secured Creditor to take any and all steps necessary to exercise any and all rights it may have in the collateral described herein, to gain possession of said collateral, to waive the 14-day stay imposed by Fed.R.Bankr.P. 4001(a)(3), to seek recovery of its reasonable attorneys' fees and costs incurred in this proceeding, and to any such further relief as this Honorable Court deems just and appropriate.

Respectfully Submitted,

/s/ Holly N. Knight
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on August 21, 2017, I electronically filed the foregoing Motion for Relief from the Automatic Stay, attached Exhibits and proposed Order with the Clerk of Court by using the CM/ECF system, and a true and correct copy has been served via CM/ECF or United States Mail to the following parties:

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Harrogate, TN 37752
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/s/ Holly N. Knight
Holly N. Knight

